



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 15, 1992

Ms. Mary Kay Fischer  
Assistant City Attorney  
City of Galveston  
P. O. Box 779  
Galveston, Texas 77553-0779

OR92-19

Dear Ms. Fischer:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 14429.

You have received a request dated December 2, 1991, for copies of certain records maintained by the Galveston Police Department ("the department"). You advise us that some of the requested information has been made available to the requestor and that some of the requested information does not exist.<sup>1</sup> You claim that the remaining information, the criminal history information, is made confidential by law and is thus excepted from required public disclosure by section 3(a)(1) of the Open Records Act.

You claim that the requested criminal history information is excepted from required public disclosure by section 3(a)(1) of the Open Records Act, which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You advise us that the department is in possession of the

---

<sup>1</sup>Please note that the Open Records Act does not require a governmental body to obtain information that is not in its possession or that does not exist. See Open Records Decision Nos. 445 (1986); 342 (1982).

requestor's criminal history information. In Open Records Decision No. 565 (1990) (copy enclosed), this office held that criminal history information obtained from the National Crime Information Center ("NCIC") Interstate Identification Index ("III") may not be released. Persons who are subjects of NCIC III records may obtain such information only in accordance with federal regulations. Accordingly, you may withhold the requested criminal history information only to the extent that it was provided to you through the NCIC III system. Otherwise, copies of the requestor's criminal history record must be released to him.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-19.

Yours very truly,



Celeste A. Baker  
Assistant Attorney General  
Opinion Committee

CAB/GK/lcd

Ref.: ID#'s 14429; 14446

Enclosures: Open Records Decision No. 565

cc: Mr. Jim Mabe  
Mabe's on the Beach  
3114 Seawall Boulevard  
Galveston, Texas 77550  
(with enclosure)